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Law Relating to Rape & Victimology

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ABSTRACT

The author has portrayed detailed research about the rape legislation in this article. It also depicts the changes the laws witnessed due to social transformations over the years. Rape is a forceful sexual act that can leave the victim traumatized for life. The Indian penal code has an anti-rape clause. The Indian Penal Code, Section 375, explains what constitutes rape. The Indian Penal Code, on the other hand, lists the penalties for rape under Section 376. Then it discusses the popular rape cases that have brought changes in the rape laws. The author concluded the article with a few effective suggestions that can help bring major changes. These amendments can change the way society perceives rape, the victims, and the aftermath.

I. INTRODUCTION

Rape is the most common crime against women. It leaves the victim terrified for life. It's horrifying how nothing has changed even after the Delhi gang-rape case. The protests and turmoil couldn't change the situation, and the rape cases are increasing day by day. As per the reports of the National Crime Records Bureau 2019, an average of about 88 cases were reported daily. The numbers are terrifying enough!

What remains the question is why a survivor is hesitant to file a report or talk about what happened to them?

Most of the victims are afraid of the disgrace that will follow them. It's unacceptable how they are afraid of society and their judgments about a rape survivor. It makes them stay back, and most of them don't even file an FIR.

RAPE is non-consensual sex with someone by either threatening them or forcing them. Isn't the definition enough to justify this heinous act? Survivors require empathy and not the eye glares of society.

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II. RAPE LAWS IN INDIA- AN INFORMATIVE STUDY AND RESEARCH

The Indian penal code has an anti-rape clause. The Indian Penal Code, Section 375, explains what constitutes rape. The Indian Penal Code, on the other hand, lists the penalties for rape under Section 376.

According to section 375 of the Indian Penal Code, “penetration” is sufficient to commit “sexual intercourse,” which constitutes the rape offence. In the instance of rape, full penetration is not necessary; “if any portion of the male organ passes into the labium of the woman’s pudendum, no matter how trivial, it equates to rape.”

The only criterion for determining whether it is rape or not is if the male organ penetrated the woman’s body.” It is not necessary for “hymen” to be “ruptured” under current legislation.

A six-year-old girl was raped in the famous case R. Vs. Farrell, she was not injured, and neither was her private part. However, she had “gonorrhoea” after that incident, which the accused also had. In this instance, it was decided that the accused was guilty of rape.

Hence, to prove whether it’s a rape or not, consent is essential. The consent should be out of a free will and not forceful.

III. ANALYSIS ON THE DEVELOPMENT OF RAPE LAWS IN INDIA AND SOCIAL TRANSFORMATION

I would like to discuss the well-known case of Tukaram vs State of Maharashtra, better known as the Mathura Rape case. This is a case that needs to be viewed in the context of social change since it is the first example that has sparked public indignation and resulted in revisions to existing legislation.

Mathura, a 16-year-old girl, was raped at a police station. Then a criminal complaint was filed by the family of Mathura. The supreme court, however, dismissed the case. They dismissed the prosecution as there were no signs of injuries of that instance on Mathura’s body. Many women’s groups around the country have rallied in response to this decision. Four notable legal academics addressed an open petition to the Supreme Court of India. They criticized the verdict. In 1983, the Criminal Law got amended in response to this demonstration. The elements that are added/edited in the criminal law after this incidence are as follows:

- Custodial rape was now recognized.
- There were closed proceedings for all the rape trails
- Victim identification publishing is strictly prohibited

Let's discuss another famous case, Sakshi VS The Union of India. Sakshi is a nongovernmental organization that filed a PIL to reframe the term RAPE. The supreme court directed the Indian judicial commission to respond in this matter. The law commission of India issued its 172 findings on a review of rape legislation in 2000, after multiple meetings and discussions with Sakshi. The following are the highlights of the 172 law commission report:

- Rape should be termed as Sexual assault
- Sexual intercourse, as defined in section 375 of the Indian criminal code, should cover all forms of penetration.
- In the year 2002, there was an amendment in section 146.

In the horrifying Nirbhaya Rape Case, the nation saw the true power of the masses.

People united and protested for days and months. This fight was for safety, a better atmosphere to reside in. People wanted a new law that could punish the devils walking amongst us. Know that transformation isn't an overnight miracle. It requires dedication, unity, understanding, and execution.

IV. REASON FOR REQUIREMENT OF AMENDMENTS IN RAPE LAWS

The National Law of the National Commission for Women act was passed in 1990 by the Parliament of the country. After two years, the commission got established. However, since then, the Women Commission has been trying to make massive amends to the laws concerning rape, but the Parliament isn't that keen on considering such changes.

Numerous changes have been introduced to the financial and legal sectors in the past 150 years. The sector concerning women has witnessed no such changes.

A limited number of seats are available for women in Parliament. The number of modifications to women's legislation is minimal. Even though there are specific seats for women in Parliament, there should be enough time for discussions and debates provided to them. Only such discussions can bring change, and only that can truly benefit the society we have been living in for years. Rape isn't considered an offence but more like a disgrace to society. This terrible act should be seen for what it is, and no survivor should suffocate in silence.

V. CONCLUSION

The researchers conclude that no law is viable without implication. The boys from an early age should be taught how to respect women. Gender bias shouldn't exist. Everyone should know about the rights and respect of all genders. Social changes, big or small, starts with us. Don't

wait when you see something bad. Report it and help the person in need. Every time is the time to make a difference. We have to unite and ask for changes in the laws. The people doing such offences should tremble with fear. Every woman deserves a safer environment to live in, and such changes are required to make that happen.
